

IN RE: Farnsworth Industrial Properties)
Ward 073, Block 102, Parcel A00040) Shelby County
Industrial Property)
Tax Year 2005)

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$312,200	\$1,386,600	\$1,698,800	\$679,520

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 20, 2006 in Memphis, Tennessee. In attendance at the hearing were registered agent Jim Schwalls and Shelby County Property Assessor's representative Rick Middleton, TCA.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a distribution warehouse constructed in 1995 located at 3778 Distriplex in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$1,490,000. In support of this position, the income approach was introduced into evidence.

The assessor contended that subject property should be valued at \$1,698,800. In support of this position, the income approach was introduced into evidence. In addition, Mr. Middleton noted subject property was sold on August 24, 2005 for a recorded consideration of \$2,239,242.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$1,490,000 as contended by the taxpayer.

The administrative judge finds that the primary difference between the parties' income approaches concerned whether approximately 5,000 square feet of mezzanine should be considered rentable space. The administrative judge finds that this square footage

is not included in the rent rolls and does not generate income. Accordingly, the administrative judge finds that 30,325 square feet of rentable space should be assumed.

The administrative judge finds that the only other significant difference between the parties concerned whether the model rental rate of \$4.76 per square foot should be reduced to \$4.60 per square foot based upon the latest leases in Distriplex Center and Distriplex Farms. The administrative judge finds that those leases do not support reducing subject property's market rental rate because subject property has much more office space than the rental comparables (i.e. 54% vs. 3.5% - 11.34%).

Ironically, even assuming a market rental rate of \$4.76 per square foot, the taxpayer's income approach still reflects a value less than \$490,000 before rounding. Similarly, if the assessor's income approach is modified by simply assuming 30,325 square feet of rentable area, a value of less than \$490,000 also results before rounding.

The administrative judge finds that the August 24, 2005 sale of subject property cannot be considered for two reasons. First, it occurred after the assessment date of January 1, 2005 and is therefore irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumption reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. Second, it appears from Mr. Schwalls' testimony that the sale price was an allocation from a transaction involving the sale of over 30 properties.¹

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$312,200	\$1,177,800	\$1,490,000	\$596,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be**

¹ Indeed, the assessor's significantly lower contention of value suggests that the allocated value does not reflect market value.


filed within thirty (30) days from the date the initial decision is sent.”

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls
Tameaka Stanton-Riley, Appeals Manager